

MORGAN, LEWIS & BOCKIUS LLP
JOHN S. BATTENFELD, SBN 119513
300 South Grand Avenue
Twenty-Second Floor
Los Angeles, CA 90071-3132
Tel: 213.612.2500
Fax: 213.612.2501
email: jbattenfeld@morganlewis.com

MORGAN, LEWIS & BOCKIUS LLP
JENNIFER WHITE-SPERLING, SBN 166504
5 Park Plaza, Suite 1750
Irvine, CA 92614
Tel: 949.399.7000
Fax: 949.399.7001
email: jwhite-sperling@morganlewis.com

MORGAN, LEWIS & BOCKIUS LLP
M. MICHAEL COLE, SBN 235538
One Market
Spear Street Tower
San Francisco, CA 94105
Tel: 415.442.1000
Fax: 415.442.1001
email: mcole@morganlewis.com

Attorneys for Defendants New York Life Insurance
Company and New York Life Insurance and Annuity
Corporation

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

OLGA ORTMANN, as an individual and on
behalf of all others similarly situated,

Plaintiff,

v.

NEW YORK LIFE INSURANCE
COMPANY, a corporation; NEW YORK
LIFE INSURANCE AND ANNUITY
CORPORATION, a corporation; and DOES 1
through 20, inclusive,

Defendants.

Case No.

**DEFENDANTS NEW YORK LIFE
INSURANCE COMPANY AND NEW
YORK LIFE INSURANCE AND ANNUITY
CORPORATION'S NOTICE OF
PENDENCY OF OTHER ACTION OR
PROCEEDING**

[CIVIL LOCAL RULE 3-13]

1 **TO THE UNITED STATES DISTRICT COURT FOR THE NORTHERN**
 2 **DISTRICT OF CALIFORNIA, AND TO PLAINTIFF OLGA ORTMANN AND HER**
 3 **ATTORNEYS OF RECORD:**

4 Pursuant to Northern District Local Rule 3-13(a), Defendants New York Life Insurance
 5 Company and New York Life Insurance and Annuity Corporation ("Defendants") hereby file this
 6 Notice of Pendency of Other Action or Proceeding.

7 **A. Description of Other Action**

8 A civil action against Defendants entitled *Justin Opyrchal v. New York Life Insurance*
 9 *Company, Inc.*, is currently pending in the United States District Court for the Central District of
 10 California. *Opyrchal* was filed on December 11, 2006, in Los Angeles Superior Court and
 11 removed to United States District Court on January 22, 2007. The plaintiffs in both *Opyrchal* and
 12 the instant action claim to have been employed as insurance agents for Defendants in California
 13 and seek to bring their claims on behalf of a proposed class of current and former insurance
 14 agents.

15 In *Opyrchal*, the plaintiff alleges claims for failure to pay minimum wage, failure to
 16 reimburse for business expenses and unlawful deductions from wages, failure to provide itemized
 17 wage statements, and failure to pay all wages owed at the time of termination pursuant to
 18 California law. In addition, the *Opyrchal* plaintiff seeks any and all relief available pursuant to
 19 California Business and Professions Code section 17200. In this action, Plaintiff also alleges
 20 claims for failure to pay minimum wage, failure to reimburse for business expenses and unlawful
 21 deductions from wages, failure to provide itemized wage statements, and failure to pay all wages
 22 owed at the time of termination pursuant to California law, and seeks all relief available pursuant
 23 to California Business and Professions Code section 17200. In addition, Plaintiff alleges claims
 24 for failure to pay overtime, failure to provide meal and rest breaks, and for the common law tort
 25 of conversion.

26 **B. The Title And Location Of The Court In Which The Other Action Is Pending.**

27 *Justin Opyrchal v. New York Life Insurance Company, Inc., et al.*, Case No. CV-07-518-
 28 SVW (VBFx); United States District Court for the Central District of California.


1-LA/938106.1

1 **C. Whether Transfer Should Be Effected.**

2 Defendants intend to promptly file a motion based on the "First to File" doctrine, which
3 will seek to dismiss, stay or transfer this action.

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5 Dated: May 10, 2007

MORGAN, LEWIS & BOCKIUS LLP
JOHN S. BATTENFELD
JENNIFER WHITE-SPERLING
M. MICHAEL COLE

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8 
9 By _____

10 M. Michael Cole
11 Attorneys for Defendants
12 New York Life Insurance Company and
13 New York Life Insurance and Annuity
14 Corporation